

Applicant: Kevin L. Parsons  
Application No.: 10/614,583  
Filed: 07/07/2003  
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### REMARKS

Claims 1-77 have been cancelled, and new claims 78-122 are being submitted herewith for the Examiner's consideration. The new claims include independent claim 78 and claims 79-122 depending therefrom. The new claims are similar in material respects to, for example, claim 14 of U.S. Patent No. 6,749,317 and claim 14 of U.S. Patent No. 6,951,410 because, for example, they all generally relate to flashlights that have both an LED and a "translucent" feature. These two patents and the current application claim priority of U.S. Patent No. 6,190,018.

In order to expedite the prosecution of this application, a terminal disclaimer over the '317, '410 and '018 patents is being filed herewith to eliminate the possibility that the Examiner may raise any obviousness-type double patenting issues of this application with respect to any of those three patents. The Examiner's acceptance of the terminal disclaimer is earnestly solicited.

Only for purposes of the examination of this application, the Examiner is asked to assume, for the sake of argument, that the device disclosed in U.S. Patent No. 5,893,631 to Padden and/or the advertisements related thereto is prior art to all of the claims being submitted herewith. Applicant expressly reserves the right, in all forums or proceedings other than the examination of this application, to assert that the Padden device is not prior art to the currently pending claims.

Even if it is assumed, for the sake of argument, that the Padden device is prior art to the new claims submitted herewith, then the new claims should be found to be patentable over the Padden device for a number of reasons. For example, the Padden device teaches that a flashlight is turned on by moving a power source with respect to a light source. In direct contrast to this,

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the new claims require, for example, that a flashlight be turned on "without moving the power source relative to the LED." For this reason alone, the new claims should be found to be patentable over the Padden device.

The Examiner's attention is drawn to the fact that the new claims submitted herewith specify that the LED "is located at a distal portion of the flashlight." Figure 1 of the subject application shows an exemplary "mode" of practicing the claimed invention, in which an LED is positioned at a distal portion of a flashlight (*e.g.*, at the end of a housing). Other "modes" of practicing this aspect of the claimed invention include, for example, any of a variety of polygonal, elliptical or circular housings in which an LED is positioned at an outer periphery thereof.

In the information disclosure statement that is being filed herewith, there are a number of references of record that teach that a light source is integrated into another component such as a key (*e.g.*, JP19950102A and U.S. Patent No. 5,541,817, referred to as the "Key References"). The Key References do not teach a "flashlight" as claimed in the present invention. Rather, they only arguably teach that a light source can be incorporated into another device or component such as a key. For this reason alone, the new claims should be found to be valid over the Key References.

Assuming, for the sake of argument, that one can call the component (*e.g.*, a key) disclosed in the Key References a "flashlight," the new claims still distinguish over these references. For example, the light source disclosed in the Key References is not at a "distal portion" of the flashlight as claimed in the new claims submitted herewith. For this reason, for example, the new claims submitted herewith should be found to be valid over the Key

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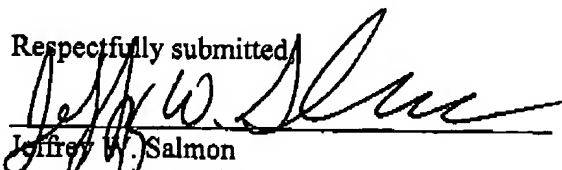
References.

The new claims being submitted herewith require other claim features that are believed not to be found in the prior art. For example, no prior art reference of which the applicant is aware teaches or suggests an LED flashlight that has a "structural component" which is formed from a "translucent material" and which "defines at least a portion of an exterior surface" of the flashlight. For this additional reason, the new claims submitted herewith should be found to be allowable over the prior art of record.

Regarding the cancelled claims, please note that no inference of any kind should be drawn that applicant is abandoning the subject matter of these claims. In this regard, a continuation application will be filed to cover this subject matter.

It is respectfully submitted that the new claims are in condition for allowance and, therefore, a formal notice to that effect is earnestly solicited. In this regard, the Examiner is respectfully requested to contact the undersigned attorney upon entry of this amendment. The issue fee for this application will be promptly paid after the undersigned attorney has confirmed that this amendment has been entered.

Respectfully submitted,

  
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